

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GUSTAVO MIRANDA,

Petitioner,
-against-

UNITED STATES OF AMERICA,

Respondent.

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MEMORANDUM AND ORDER
98 CV 1490 (ILG)
96 CR 211 (ILG)

GLASSER, United States District Judge:

The petitioner was convicted on June 18, 1996 of conspiracy to possess cocaine with intent to distribute it and of the substantive crime he conspired to commit. Following a two day trial, he was found guilty by a jury. What has followed since has been a serial filing of motions which were: (1) pursuant to Rule 33 Fed. R. Cr. P. for a new trial, which was denied in 951 F. Supp. 368 (E.D.N.Y. 1996); (2) an appeal alleging evidentiary error; (3) prosecutorial misconduct and ineffective assistance of counsel; (4) petition pursuant to 28 U.S.C. § 2255 dismissed in WL 2561990 (E.D.N.Y. 2008); (5) writ of error audita querela petition denied, Docket No. 46; (6) motion pursuant to Rules 60(b)(4)(6) and (d)(1)(3) Fed. R. Civ. P., denied, Docket No. 47; (7) On June 6, 2009, he again filed an audita querela petition which was denied, Docket No. 48. In that denial, the petitioner was advised that his unceasing filings will prompt the Court to enjoin all future filings stemming from his 1996 conviction without first obtaining the approval of a Magistrate Judge of this Court.

That cautionary warning was ignored by yet another *pro se* filing on August 17, 2012, seeking relief from judgment pursuant to Rule 60(b) Fed. R. Civ. P., Docket No. 58. The government was directed to submit a response by September 21, 2012.

Extensions of the prescribed time were requested and granted and a response was filed on December 21, 2012, Docket No. 56. In a Memorandum and Order dated January 13, 2013, familiarity with which is assumed, Docket No. 57, that motion was denied. On January 22, 2013, a reply, which was neither directed nor authorized was filed in opposition to the government's response which will not be considered.

The burden imposed upon the judicial system by meritless filings over a period of sixteen years following his conviction, should no longer be tolerated. The warning that he will be enjoined from such filings, given in 2009, has gone unheeded and will now be executed. Accordingly, the petitioner, Gustavo Miranda, is hereby enjoined from filing any further request for relief, whether by motion or petition, stemming from his conviction in 1996 without first obtaining permission of this Court to do so.

SO ORDERED.

Dated: Brooklyn, New York
 February 1, 2013


I. Leo Glasser

Filed by ECF and copy mailed to:

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